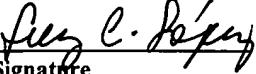


041604
17157 U.S. PTO

CERTIFICATION UNDER 37 C.F.R. AND 1.10
I hereby certify that, on the date shown below, this correspondence is being deposited with the United States Postal Service in an envelope addressed to: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 as "Express Mail Post Office to Address" Mailing Label No. EV166756711US on April 16, 2004.


Signature

LUZ C. LOPEZ
(type or print name of person certifying)

PATENT
Docket No.: 57657/04-265
Page 1 of 8

22581 U.S.P.T.O.
10/826929
041604

Preliminary Classification:

Proposed Class:

Subclass:

NOTE: "All applicants are requested to include a preliminary classification on newly filed patent applications. The preliminary classification, preferably class and subclass designations, should be identified in the upper right-hand corner of the letter of transmittal accompanying the application papers, for example 'Proposed Class 2, subclass 129.'" M.P.E.P. Section 601, 7th ed.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

NEW APPLICATION TRANSMITTAL

Transmitted herewith for filing is the patent application of

Inventor(s): Alexander LAI

For (title): DNA VACCINE EXPRESSING HA1 OF EQUINE-2 INFLUENZA VIRUS

1. Type of Application

This new application is for a(n)

Original (nonprovisional)
 Design
 Plant

- [] Divisional.
- [] Continuation.
- [] Continuation-in-part (C-I-P).

2. Benefit of Prior U.S. Application(s) (35 U.S.C. Sections 119(e), 120, or 121)

- [X] The new application being transmitted claims the benefit of prior U.S. application(s). This application is a non-provisional of corresponding application Serial No. 60/470,843, filed 05/15/2003.

3. Papers Enclosed

A. Required for Filing Date under 37 C.F.R. Section 1.53(b) (Regular) or 37 C.F.R. Section 1.153 (Design) Application

26 Pages of Specification
3 Pages of Claims
1 Pages of Abstract
4 Sheets of Drawing [Formal]

- [] The enclosed drawing(s) are photograph(s), and there is also attached a "PETITION TO ACCEPT PHOTOGRAPH(S) AS DRAWING(S)." 37 C.F.R. Section 1.84(b).

[] Formal
[] Informal

B. Other Papers Enclosed

— Pages of declaration and power of attorney
— Pages of assignment
— Nonpublication Request and Certification under 35 U.S.C. 122 (b)(2)(B)(i)
2 Initial Application Data Sheet
— None
— Other

4. Additional Papers Enclosed

- Amendment to claims
- Cancel in this applications claims _____ before calculating the filing fee.
(At least one original independent claim must be retained for filing purposes.)
- Add the claims shown on the attached amendment. (Claims added have been numbered consecutively following the highest numbered original claims.)
- Preliminary Amendment
- Information Disclosure Statement (37 C.F.R. Section 1.98)
- Form PTO-1449 (PTO/SB/08A and 08B)
- Citations
- Declaration of Biological Deposit
- Submission of "Sequence Listing," computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.
NOTE: I hereby state that the information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing. See 37 CFR 1.821(f).
- Authorization of Attorney(s) to Accept and Follow Instructions from Representative
- Special Comments
- Other

5. Declaration or Oath (including power of attorney)

- Enclosed
Executed by
 - inventor(s).
 - legal representative of inventor(s). 37 C.F.R. Section 1.42 or 1.43.
 - joint inventor or person showing a proprietary interest on behalf of inventor who refused to sign or cannot be reached.
 - This is the petition required by 37 C.F.R. Section 1.47 and the statement required by 37 C.F.R. Section 1.47 is also attached. See item 13 below for fee.
- Not Enclosed.
 - Application is made by a person authorized under 37 C.F.R. 1.41 on behalf of *all* the above named inventor(s).
 - Showing that the filing is authorized.

6. Inventorship Statement

The inventorship for all the claims in this application are:

The same.

or

Not the same. An explanation, including the ownership of the various claims at the time the last claimed invention was made,
 is submitted.
 will be submitted.

7. Language

English
 Non-English

The attached translation includes a statement that the translation is accurate. 37 C.F.R. Section 1.52(d).

8. Assignment

An assignment of the invention to

is attached. A separate
 "COVER SHEET FOR ASSIGNMENT (DOCUMENT) ACCOMPANYING NEW PATENT APPLICATION" or
 FORM PTO 1595 is also attached.
 will follow.
 Assignment previously recorded on _____ at Reel ____ / Frame ____.

9. Certified Copy

Certified copy(ies) of application(s)

Country:

Application No.:

Filed:

from which priority is claimed

is (are) attached.
 will follow.

10. Fee Calculation (37 C.F.R. Section 1.16)

A. Regular application

CLAIMS AS FILED

| Claims | Number Filed | Basic Fee Allowance | Number Extra | Rate | Basic Fee 37 C.F.R. Section 1.16(a) \$770.00 |
|---|--------------|------------------------|--------------|----------|---|
| Total Claims (37 C.F.R. Section 1.16(c)) | 19 | - 20 = | x | \$ 18.00 | -0- |
| Independent Claims (37 C.F.R. Section 1.16(b)) | 1 | - 3 = | x | \$ 86.00 | -0- |
| Multiple Dependent Claim(s), if any (37 C.F.R. Section 1.16(d)) | | | + | \$290.00 | -0- |

[] Amendment cancelling extra claims is enclosed.
[] Amendment deleting multiple-dependencies is enclosed.
[] Fee for extra claims is not being paid at this time.

Filing Fee Calculation \$ 770.00

B. Design application
(\$340.00--37 C.F.R. Section 1.16(f))
Filing Fee Calculation \$ _____

C. Plant application
(\$530.00--37 C.F.R. Section 1.16(g))
Filing Fee Calculation \$ _____

11. Small Entity Statement(s)

Small entity statement is claimed at this time.
 Small entity statement is not claimed at this time.

Filing Fee Calculation (50% of A, B or C above) \$ _____

12. Request for International-Type Search (37 C.F.R. Section 1.104(d))

(complete, if applicable)

Please prepare an international-type search report for this application at the time when national examination on the merits takes place.

13. Fee Payment Being Made at This Time

Not Enclosed

No filing fee is to be paid at this time.

Enclosed

Filing fee \$ _____

Recording assignment
(\$40.00; 37 C.F.R. Section 1.21(h))
(See attached "COVER SHEET FOR
ASSIGNMENT ACCOMPANYING NEW
APPLICATION.") \$ _____

Petition fee for filing by other than all the
inventors or person on behalf of the inventor where
inventor refused to sign or cannot be reached
(\$130.00; 37 C.F.R. Sections 1.47 and 1.17(I)) \$ _____

For processing an application with a
specification in a non-English language
(\$130.00; 37 C.F.R. Sections 1.52(d) and 1.17(k)) \$ _____

Processing and retention fee
(\$130.00; 37 C.F.R. Sections 1.53(d) and 1.21(l)) \$ _____

| | | |
|-----|--|----------|
| [] | Fee for international-type search report (\$40.00; 37 C.F.R. Section 1.21(e)) | \$ _____ |
| | Total Fees Enclosed | \$ _____ |

14. Method of Payment of Fees

- [] Check in the amount of \$_____.
- [] Charge Account No. _____ in the amount of \$_____.
[] A duplicate of this transmittal is attached.

15. Authorization to Charge Additional Fees

- [] The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Account No..
 - [] 37 C.F.R. Section 1.16(a), (f) or (g) (filing fees)
 - [] 37 C.F.R. Section 1.16(b), (c) and (d) (presentation of extra claims)
 - [] 37 C.F.R. Section 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
 - [] 37 C.F.R. Section 1.17(a)(1)-(5) (extension fees pursuant to Section 1.136(a).
 - [] 37 C.F.R. Section 1.17 (application processing fees)
 - [] 37 C.F.R. Section 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. Section 1.311(b))

16. Instructions as to Overpayment

- [] Credit Account No. _____.
- [] Refund

17. Correspondence Address

Customer No. 22206

PATENT
Docket No.: 57657/04-265
Page 8 of 8

Respectfully submitted,

4/16/04

DATE

Reg. No.: 36,050

SIGNATURE OF PRACTITIONER

R. Alan Weeks

(type or print name of practitioner)

Tel. No.: (918) 599-0621

321 S. Boston Ave., Suite 800

P.O. Address

Customer No.: 22206

Tulsa, OK 74103-3318

256043.1